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Response Under 37 C.F.R. § 1.116  
Expedited Procedure  
Examining Group 3700

PATENT  
ATTORNEY DOCKET NO.: 040894-7453

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Takao HASEGAWA et al. ) Confirmation No.: 2328  
Application No.: 10/581,197 ) Group Art Unit: 3721  
Filed: June 1, 2006 ) Examiner: Scott A. Smith  
For: STAPLING APPARATUS ) Mail Stop AF

**Mail Stop AF**  
Commissioner of Patents  
U.S. Patent and Trademark Office  
Alexandria, VA 22314

Sir:

**AMENDMENT UNDER  
37 C.F.R. § 1.116 TRANSMITTAL FORM**

1. Transmitted herewith is an Amendment Under 37 C.F.R. § 1.116 responding to the Final Office Action dated November 13, 2008.
2. Additional papers enclosed:

- Replacement Drawings  
 Information Disclosure Statement  
 Form PTO-1449, \_\_\_\_\_ references included  
 Citations  
 Declaration of Biological Deposit  
 Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

3. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

- Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition and fee for extension of time.
- Applicants petition for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

Total Months <u>Requested</u>	Fee for <u>Extension</u>	[Fee for Small Entity]
<input type="checkbox"/> one month	\$ 130.00	\$ 65.00
<input type="checkbox"/> two months	\$ 490.00	\$ 245.00
<input type="checkbox"/> three months	\$ 1,110.00	\$ 555.00
<input type="checkbox"/> four months	\$ 1,730.00	\$ 865.00

Extension of time fee due with this request: \$ \_\_\_\_\_

If an additional extension of time is required, please consider this a Petition therefor.

- An extension for \_\_\_\_\_ months has already been secured and the fee paid therefor of \$\_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

4. Constructive Petition

- EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).

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5. Fee Calculation (37 C.F.R. §1.16)

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. §1.16(c))	14	minus	20	0	x \$52 each=	+ \$
Independent Claims (37 C.F.R. §1.16(b))	5	minus	4	1	x \$220 each=	+ \$220.00
[ ] First presentation of Multiple dependent claim(s)					\$390.00	+ \$
SUB-TOTAL =						\$220.00
Reduction by ½ for filing by a small entity						- \$
TOTAL FEE =						\$220.00

6. Fee Payment

- No fee is to be paid at this time.
- The Commissioner is hereby authorized to charge \$220.00 for one additional independent claim to Deposit Account 50-0310.
- The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

By:



David E. Connor

Registration No. 59,868

Dated: January 29, 2009

**CUSTOMER NO. 009629**

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